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Attorneys for Plaintiff, SHANE BROGLIA

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
NEWARK VICINAGE**

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| SHANE BROGLIA<br><br>Plaintiff,<br><br>v.<br><br>WYCKOFF POLICE DEPARTMENT, BENJAMIN C. FOX, JOE DOES 1-50, ABC and XYZ ENTITIES 1-20<br><br>Defendant. | CASE NO:<br><br>CIVIL ACTION<br><br>**COMPLAINT** |

Plaintiff, SHANE BROGLIA ("BROGLIA"), by and through undersigned counsel, hereby states and alleges as follows:

**INTRODUCTION**

1. Privacy has long been recognized as a fundamental right in the United States Constitution, both under the Fourth and Fourteenth Amendment, as

well as the various protections outlined in the Bill of Rights. The legislative branch, recognizing that law enforcement personnel, amongst others, have the ability to access any person's private information, especially the information retained by the State in connection with a driver's license, Congress passed the Driver's Privacy Protection Act ("DPPA"), 18 U.S.C. 2721 et. seq., to secure this information.

2. This case involves the invasion of privacy and illegal searches of Plaintiff Shane Broglia by several Wyckoff Police Department law enforcement officers, who accessed her information on or around August 2, 2014, and probably more times prior to and after that period of time without any legitimate purpose and as a result not only violated DPPA, 42 U.S.C. 1983 and state law, but have also damaged Plaintiff Broglia's life as a result of the violations. Plaintiff is entitled to a determination that her rights have been violated, an order enjoining further violations and monetary damages for the invasions of her privacy.

**NATURE OF PLAINTIFF'S CLAIMS**

3. This is an action for injunctive relief and money damages under 42 U.S.C. § 2721 et.seq. ("DPPA"), the Fourth Amendment, the Fourteenth Amendment, and other protections afforded by the United States Bill of Rights and the laws of the State of New Jersey to recover damages for Defendants' disregard and invasion of Plaintiff's constitutionally protected right to privacy.

4. Specifically, law enforcement personnel in the State of New Jersey illegally view Plaintiff Shane Broglia's private, personal and confidential driver's license information without legitimate purpose. These law enforcement personnel viewed her private information on three separate occasions on or around August 2, 2014; presumably more have viewed it during and after this time, however, due to the State of New Jersey's

procedures for investigating such matters Plaintiff Broglia does not know the full extent of the violations to date. Each unauthorized access of her private information, made while acting under the color of state law, violated Broglia's federal civil rights and constituted behavior prohibited by federal statutes, New Jersey statutes, common law, and agency and departmental regulations prohibiting some or all of the conduct engaged in by Defendants in this case.

## THE PARTIES

5. Plaintiff SHANE BROGLIA was and at all times hereinafter mentioned a resident of the State of New Jersey, WYCOFF in BERGEN COUNTY, residing at 457 Gossie Road, 1st floor

6. Defendant, WYCOFF POLICE DEPARTMENT, ("W.P.D.") a public entity, is a county and political subdivision of the State of New Jersey duly organized and existing under the laws of the State of New Jersey, and located at 1 Scott Plaza, Wycoff, New Jersey 07481.

7. Defendant, BENJAMIN C. FOX, upon information and belief, was at all times material herein, a citizen of the United States and a resident of the State of New Jersey, duly appointed and acting in his individual capacity as Chief of Police of the Wycoff Police Department.

8. Defendant Entity ABC and XYZ (1-20) are various cities, counties, municipalities and other entities located in New Jersey, which may be sued under New Jersey statutes and federal departments and agencies, which may be sued under 28 U.S.C. § 1346 or other statutes.

9. Defendant Jane doe and John Does (1-50), upon information and belief, were

at all times material hereto, residents of the state of New Jersey and citizens of the United States, duly appointed and acting in their individual capacities as law enforcement supervisors, officers or employees of the Defendant Entities or other federal, state, county or municipal entities in New Jersey.

## FACTUAL ALEGATIONS

### New Jersey Law Enforcement Officers Viewed BROGLIA'S Private, Legally Protected Information Outside of Any Official Investigation or for a Legal Purpose

10. Law enforcement officers began looking up Broglia's private information on the computer database of motor vehicle records as early as August 2, 2014, if not earlier.

11. The officers viewed Broglia's private and highly-restricted personal information via database of motor vehicle records, including her home address, color photograph or image, social security number, date of birth, state of birth, detailed vehicle registration information and description, prior and current home and mailing addresses, emergency contacts and those contracts private and highly restricted personal information.

12. Defendant W.P.D. John and Jane Does, under the direction of Defendant Fox, had the ability to ascertain that driver's license information, including Plaintiff's, was being accessed by law enforcement personnel from a variety of law enforcement agencies.

13. Defendant W.P.D. John and Jane Does, under the direction of Defendant Fox, had the ability to prevent unauthorized access to Plaintiff's driver's license information.

14. Defendant W.P.D. John and Jane Does, under the direction of Defendant Fox, failed to prevent unauthorized access to the database including access to Plaintiff's driver's license information.

15. The policy of the State of New Jersey is to uphold the provisions of the law, both state and federal and to protect and safeguard the privacy rights of New Jersey's citizens and inhabitants, including its drivers' privacy rights and including those rights as required to be protected by federal law, and in particular, it is the policy of the State of New Jersey to comply with the provisions and requirements of the DPPA, 18 U.S.C. § 2721, et. seq.

16. Upon information and belief, Defendant W.P.D. and W.P.D. does, under the discretion of Defendant Fox, actually knew that law enforcement officers were accessing the database for impermissible purposes, including viewing Plaintiff's driver's license information, and acquiesced, facilitated, approved or simply ignored the conduct.

17. Even if the W.P.D. does under the direction of Defendant fox had no actual knowledge of the impermissible uses of the database they oversaw, upon information and belief, they were reckless in their supervision of their subordinates who did operate the database.

18. Based on the foregoing incidents, Plaintiff contacted Defendant Fox through her counsel and Defendant Fox confirmed in a letter dated September 24, 2014, that database checks were run on himself and a guest at his home on several occasions on or around August 2, 2014.

**BROGLIA HAS BEEN HARMED BY THIS INTRUSION INTO**

**HER PRIVATE LIFE**

19. As a result of this invasion of privacy, BROGLIA does not feel comfortable going to public places where police officers are likely to be around and has lost her sense of freedom, including her sense of freedom to travel and enjoy public places.

20. As a result of this invasion of privacy, BROGLIA has been forced to significantly alter her social activities.

21. As a result of this invasion of privacy, BROGLIA feels she has lost any control over the privacy of her life.

22. As a result of this invasion of privacy, BROGLIA limits interaction on any social media sites.

23. As a result of this invasion of privacy, BROGLIA has considered relocating.

24. BROGLIA in addition to being fearful and anxious about her safety and that of those with whom she associates, is also concerned about the long-term impact of her comprised private and highly restricted information, which may be used for an unauthorized purpose at any time.

COUNT 1 18 U.S.C. § 2721

VIOLATION OF THE DRIVERS PRIVACY PROTECTION ACT

**(Against All Defendants, including Jan, John and Entity Does)**

25. Plaintiff hereby repeats and re-alleges each allegation heretofore alleged.

26. BROGLIA provided information to the Department of Motor Vehicles in New Jersey, including her home address, color photograph or image, social security

number, date of birth, state of birth, detailed vehicle registration information and description, prior and current home and mailing addresses, emergency contacts and those contacts private and highly restricted personal information in part, for the purpose of acquiring and using a New Jersey driver's license.

27. At no time did BROGLIA provide her consent for any of the Defendant individuals to obtain, disclose or use, or for any of the Defendant entities or Defendant Supervisors to disclose or to allow Defendant individuals to obtain, disclose or use her private information for anything but official law enforcement business.

28. Intentionally obtaining, disclosing or using a driver's license or using a drivers license information without an authorized purpose is a violation of DPPA. The Statute provides for criminal fines and civil penalties, 18 U.S.C. § 2723, 2724.

29. The DPPA provides relief for violations of a person's protected interest in the privacy of her motor vehicle records and the identifying information therein.

30. The Defendants, each of them, have invaded BROGLIA'S legally protected interest under DPPA.

31. According to the Defendant entities, the majority of the individual Defendants knowingly obtained, disclosed or used BROGLIA'S personal information from the database of motor vehicles for a purpose not permitted under the DPPA. 18 U.S.C. § 2724 (a).

32. None of the individual Defendant's activities fell within the DPPA's permitted exceptions for procurement of BROGLIA'S private information.

33. By the actions described above, each individual Defendant law enforcement

personnel was acting within the scope of his or her employment when he r she obtained, disclosed or used BROGLIA's personal information from the database of Motor vehicles for an impressible purpose.

34. The individual Defendants knew that their actions related to BROGLIA's personal information were in violation of the DPPA.

35. The entity Defendants and Defendant Supervisors knowingly authorized, ratified, approved, acquiesced in, committed or participated in obtaining, disclosing or using BROGLIA's private personal information by the individual Defendants.

36. BROGLIA has suffered harm because her private information has been obtained unlawfully, BROGLIA suffered and continues to suffer harm by virtue of the increased risk that her protected information is in the possession of law enforcement personnel who obtained it without legitimate purpose. This is precisely the harm that Congress sought to prevent by enacting the DPPA and its statutory limits.

37. The individual Defendants, Supervisor Defendants and entity Defendants each willfully and recklessly disregarded the law, entitling BROGLIA to punitive damages under DPPA, *see* 18 U.S.C. § 2724 (b)(2), which is not subject to the pleading requirement of New Jersey state law. Plaintiff is entitled to actual, punitive damages, reasonable attorney's fees and other litigation costs reasonably incurred, and such other preliminary and equitable relief as the court determines to be appropriate, 18 U.S.C. § 2724 (b).

38. In addition, under the DPPA, the Plaintiff is entitled to a baseline liquidated damages award for at least 42,500.00 for each violation of the DPPA, 18 U.S.C. § 2721 (b)(1). Watts need not prove actual damages to receive liquidated damages

**JURY DEMAND**

39. Plaintiff demands a jury trial as to all issues of facts herein properly triable to a jury under any statute or under common law.

WHEREFORE, Plaintiff Shane Broglia prays for judgment against the defendants as follows:

A. A money judgment against all the Defendants for liquidated, actual and compensatory damages in an amount to be determined and punitive damages in an

amount to be determined by the jury, together with her costs, including reasonable attorney fees, under 42, U.S.C. § 1988, the DPPA and other

applicable laws, and prejudgment interest;

B. Actual damages, punitive damages, attorney's fees and other litigation costs and such other preliminary and equitable relief as the Court determines

to be appropriate under 18 U.S.C. 2724 (b);

C. Liquidated damages of at least 42,500.00 for each violation of the DPPA under 128 U.S.C. § 2721 (b)(1);

D. An injunction, permanently enjoining al Defendants from viewing Plaintiff's private information in violation of the DPPA, unless necessary for law enforcement purposes;

E. A permanent injunction, barring Defendant's from trespassing or instructing proxies to trespass on Plaintiff's property or otherwise harass her or infringe in any way on her privacy and her right against invasion of her privacy;

F. For such other and further relief as this Court deems just and equitable.

Dated: March 14, 2017

Respectfully submitted,

____S/ Timothy J. McIlwain_______
Timothy J. McIlwain, Esquire

DESIGNATION OF TRIAL COUNSEL

Timothy J. McIlwain is designated as trial counsel in this matter.

____S/ Timothy J. McIlwain ____________
Timothy J. McIlwain, Esquire

CERTIFICATION PURSUANT TO RULE 4:5-1

I certify that the matters in controversy in this action are not the subject of any other action pending in any court or of a pending arbitration proceeding, and that no other action or arbitration Proceeding is contemplated.

Respectfully submitted,

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*Attorneys for Plaintiff*

By ____S/ Timothy J. McIlwain____
Timothy J. McIlwain, Esq

Dated: 3/14/2017__